

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6721**

**BILL NUMBER:** SB 239

**NOTE PREPARED:** Dec 31, 2007

**BILL AMENDED:**

**SUBJECT:** Alcoholic Beverage Issues.

**FIRST AUTHOR:** Sen. Weatherwax

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Breweries:* This bill allows a small brewery to sell and deliver beer to a consumer. The bill removes a provision that allows a large brewery to sell and deliver beer to a consumer.

*Warehouses:* The bill also requires an applicant for a beer wholesaler's permit to describe the premises to be used as a warehouse. This bill provides that a beer wholesaler's warehouse does not have to be located within the corporate limits of an incorporated city or town.

*Wholesalers:* The bill removes a provision that allows the Alcohol and Tobacco Commission (ATC) to issue only one beer wholesaler's permit to an applicant. The bill also prohibits a beer wholesaler from selling beer to a consumer other than an employee of the wholesaler. This bill allows a beer wholesaler to have an interest in another permit to sell at wholesale alcoholic beverages of any type. The bill allows a beer wholesaler to have an interest in a wine or liquor wholesaler's permit. This bill repeals a provision prohibiting the ATC from issuing a beer wholesaler's permit to a person who holds a wine wholesaler's permit and a liquor wholesaler's permit.

*Beverage Samples:* This bill also allows liquor retailers and liquor dealers to provide samples of flavored malt beverages and hard cider. This bill establishes requirements that a wine wholesaler must meet to resell wine purchased at an estate sale.

*Estate Auction Purchases:* The bill provides a wholesaler with immunity from civil liability for product liability or negligence regarding wine the wholesaler purchased at an estate auction and resold. This bill eliminates residency requirements for dealers.

*Permit Quotas:* This bill also establishes quotas for liquor wholesaler permits and wine wholesaler permits.

*Penalties Against Wholesalers:* This bill makes it a Class D felony for a wholesaler to sell a brand of alcoholic beverages that the permittee has not been authorized to sell by the brand's primary source of supply, and allows an injured permittee to bring a civil action against the wholesaler.

**Effective Date:** July 1, 2008.

**Explanation of State Expenditures:** This bill will cause an increase in administrative costs for the Alcohol and Tobacco Commission. The amount of the increase is indeterminable. The bill will require the ATC to amend rules, forms, and procedures related to the permits affected by the bill. There could also be an increase in enforcement costs due to the provisions allowing sampling of certain beverages and the delivery of beer to employees of wholesalers and consumers of small brewers.

*Penalties Against Wholesalers:* This bill makes it a Class D felony for a wholesaler to sell a brand of alcoholic beverages that the permittee has not been authorized to sell by the brand's primary source of supply. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** *Permit Quotas:* This bill also establishes quotas for liquor wholesaler permits and wine wholesaler permits. According to permit counts from the ATC as of September 20, 2007, there was no county that exceeded the permit quotas contained in the bill. Therefore, there is not expected to be a fiscal impact from this provision. The bill allows one liquor wholesaler and one wine wholesaler permit for every 35,000 people in a county.

*Penalties Against Wholesalers:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

If a wholesaler sells a brand of alcohol that the wholesaler is not authorized to sell, an injured permittee is entitled to bring a civil action against the wholesaler. If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the judicial salaries fee (\$17), the public defense administration fee (\$3), the court administration fee (\$3), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

**Background on Alcohol Sales:** To the extent that any of the provisions of this bill affect alcoholic beverage sales, state revenues will be impacted. Sales changes will affect collections of both alcoholic beverage excise taxes and the Sales Tax. It is estimated that the following provisions could increase sales of alcoholic beverages in the state:

- Allowing breweries to sell beer directly to consumers.

- Allowing certain additional beverages to be sampled.
- Allowing the sale of alcohol purchased at an estate sale in some circumstances.

The alcoholic beverage excise taxes are distributed in varying amounts to the following funds: state General Fund, the Post War Construction Fund , the ATC Enforcement and Administration Fund , the Addiction Services Fund , and the Wine Grape Market Development Fund. The state retains 50% of the General Fund distribution of beer and wine excise tax revenue. The remainder is distributed to cities and towns based on population.

Sales Tax revenue is deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.067%), the Public Mass Transportation Fund (0.76%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

**Explanation of Local Expenditures:** *Penalties Against Wholesalers:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

**Explanation of Local Revenues:** *Penalties Against Wholesalers:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee or the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**State Agencies Affected:** ATC; DOC.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** ATC permit counts from September 20, 2007.

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